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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
(OAKLAND DIVISION)

CHANTHA VANNALEE, individually  
on behalf of herself and on behalf of all  
others similarly situated, and on behalf  
of the general public and DOES 1-20,  
inclusive,

Plaintiffs,

v.

GRANT THORNTON, LLP, an Illinois  
limited Liability Partnership; DOES 1-  
inclusive,

Defendants.

Case No.

COLLECTIVE ACTION (29  
U.S.C. SECTION 216(b))

CLASS ACTION (FRCP 23)

CLASS ACTION COMPLAINT  
FOR:

1. UNPAID OVERTIME  
WAGES (CALIFORNIA  
LABOR CODE SECTIONS  
201, 510(A), 558, 1194;  
CALIFORNIA INDUSTRIAL  
WAGE COMMISSION  
ORDER NO. 4-2001.)
2. VIOLATION OF FAIR  
LABOR STANDARDS ACT  
(29 U.S.C. SECTION 207 ET  
SEQ.)
3. VIOLATION OF  
CALIFORNIA BUSINESS  
AND PROFESSIONS CODE  
SECTION 17200 ET SEQ.
4. DECLARATORY RELIEF.
5. ACCOUNTING.

JURY TRIAL DEMANDED.

1 **CLASS ACTION COMPLAINT FOR UNPAID OVERTIME WAGES**

2 Comes Now Plaintiffs on behalf of themselves and all other similarly situated  
3 and on behalf of the general public, hereby alleges

4 **JURISDICTION AND VENUE**

5 1. Plaintiff Chantha Vannalee (the "named plaintiff") resides in North  
6 Hollywood, California.

7 2. Defendant GRANT THORNTON, LLP, is an Illinois limited liability  
8 partnership, and one of the nation's largest accounting firms, employing many certified  
9 public accountants ("CPAs"), and other personnel, with offices and employees in at least  
10 five separate California locations.

11 3. The named plaintiff is a current employee of defendant and those  
12 similarly situated to the plaintiff are former or current employees of the defendant.

13 4. This Court has jurisdiction over Plaintiffs' federal law claims pursuant to  
14 29 U.S.C. 5216(b) and 28 U.S.C. Section 1331 and 28 U.S.C. Section 1337 because the  
15 action arises under the laws of the United States.

16 5. This Court has supplemental jurisdiction over Plaintiffs' California state  
17 law claims pursuant to 28 U.S.C. 1367(a) because the state law claims are so related to  
18 the federal claims that they form part of the same case or controversy between Plaintiffs  
19 and Defendant GRANT THORNTON, LLP.

20 6. Venue is proper in the Northern District of California under 28 U.S.C.  
21 1392(b) and (c) because a substantial part of the events or omissions giving rise to the  
22 claims occurred in this district. Defendant transacts business, maintains offices, or is  
23 otherwise found within the Northern District of California.

24 **CLASS ACTION AND REPRESENTATIVE ALLEGATIONS.**

25 7. The named plaintiff brings this action on their own behalf, and on behalf  
26 of the class of all persons similarly situated and on behalf of the general public.

27 8. For at least four years prior to the filing of Plaintiff's Complaint and  
28 continuing to the present, Defendant has instituted and carried out a plan, pursuant to

1 which Defendant failed to pay overtime compensation to Plaintiff and members of the  
2 Plaintiff Class in violation of 29 U.S.C. Section 2160, California Labor Code Section 1194,  
3 and various Wage Orders of the California Industrial Welfare Commission (hereinafter  
4 "California I.W.C. Wage Orders"). Specifically, Defendant has implemented and  
5 enforced a policy of requiring the Plaintiff and members of the Plaintiff Class to work  
6 uncompensated overtime in violation of federal and California law. Said unlawful  
7 policy and practice has been carried out by treating Plaintiffs as exempt from the legal  
8 obligations under federal and California law which require the payment of overtime  
9 compensation. Specifically, Defendant has treated its employees falling within the  
10 subject Class as exempt from such overtime pay requirements and has refused to pay all  
11 such members of the Class overtime, notwithstanding the fact that all such members of  
12 the Class are not exempt and are indeed entitled to overtime pay under applicable  
13 federal and California wage and hours laws. Further, Defendant has willfully failed and  
14 refused, and continues to fail and refuse, to pay members of the Plaintiff Class wages  
15 due (including previously uncompensated overtime pay) at the time the employment of  
16 Plaintiff class members which Defendant terminates, as required by California Labor  
17 Code Section 201 through 203. Further, Defendant has willfully failed and refused, and  
18 continues to fail and refuse, to provide members of the Plaintiff Class with appropriate  
19 lunch and rest breaks, as required by applicable law, and to compensate said persons  
20 for the deprivation of such lunch and rest periods in the manner required by law.

21 9. The class consists of all persons employed by the Defendant, or any one of  
22 them, within the State of California as an "associate" or "manager",<sup>1</sup> or similarly titled  
23 personnel who were performing the same sort of functions of the named plaintiff, and  
24 subject to the same salaried compensation system, from four years preceding the filing  
25 of this complaint through the date of judgment after trial who were not compensated  
26 for their work and overtime work as required by California law.

<sup>1</sup> Defendant maintains a deceptive distinction between "senior managers" and "managers," where senior managers are all certified public accountants.



10. The named plaintiff seeks to represent a class of persons who are so numerous that the joinder of each member of the class is impracticable.

11. There is a well-defined community of interest in the questions of law and fact affecting the class the named plaintiff represents. The class members' claims against Defendant involve questions of common or general interest, in that their claims are based on Defendants implementation and utilization of a policy pursuant to which all members of the class were denied payment of overtime compensation during the time in question. These questions are such that proof of a state of facts common to the members of the class will entitle each member of the class to the relief requested in this Complaint.

12. The named plaintiff will fairly and adequately represent the interests of the class because the named plaintiff is a member of the class and the claims of the named plaintiff are typical of those in the class.

13. Class certification is appropriate under Federal Rule of Civil Procedure 23(b)(3) because questions of law and fact common to the Class predominate over any questions affecting only individual members of the Class.

## FACTS

14. Plaintiffs hereby incorporate each and every allegation contained in this Complaint above, and reallege said allegations as though fully set forth herein.

15. During all times relevant herein, the class members supported the business of the defendant. Such work involved the class members assisting their superiors in the production of the products and services provided by the defendant's business to its customers. The great majority of such work by the class members included, but was not limited to, secretarial, clerical, and data entry support work, including filing papers, organizing and assembling documents, taking notes of meetings, entering spreadsheet data and formatting spreadsheets, and similar tasks requiring very little or no exercise of discretion or independent judgment or any

1 advanced professional degree or license or the prior completion of any extended course  
2 of academic or technical studies in any art or science.<sup>2</sup>

3 16. Defendant compensated the named plaintiff and the class members on a  
4 "salary only" basis whereby the named plaintiff and the class members were paid a  
5 fixed salary for all hours worked during each week.

6 17. There are numerous common questions of law and fact that predominate  
7 over any questions affecting only individual members of the Class. Among these  
8 questions of law and fact common to the Class are:

9 a. Whether Defendant unlawfully failed to pay overtime compensation in  
10 violation of 29 U.S. C. section 5211;

11 b. Whether Defendant unlawfully failed to pay overtime compensation in  
12 violation of California Labor Code Section 1194;

13 c. Whether Defendant unlawfully failed to provide legally required meal  
14 and rest breaks for members of the Class and failed to compensate Class  
15 members for such deprivation.

16 d. Whether Defendant unlawfully failed to pay overtime wages due and  
17 owing at the time of termination of the employment of Class Members;

18 e. Whether the members of the Plaintiff Class sustained damages and, if  
19 so, the proper measure of such damages; and

20 f. Whether the Class is entitled to injunctive relief.

21 **FIRST CAUSE OF ACTION: OVERTIME WAGES**

22 (California Labor Code Section 1194)

23 18. Plaintiffs hereby incorporate each and every allegation contained in this  
24 complaint, and reallege said allegations as though fully set forth herein.

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<sup>2</sup> To the extent that such personnel perform work fairly characterized as tax preparation type-work, the work is conducted only for purposes of submission to senior management, who are, as previously noted, all certified public accountants (for instance, no member of the class ever signs or completes any tax filings on behalf of any clients).

1           19. At all relevant times, the named plaintiff and the plaintiff class members  
2 were required to work in excess of eight hours during the workday and in excess of  
3 forty (40) hours during the workweek and/or worked more than six consecutive days  
4 in a workweek.

5           20. During all relevant times the Wage Order No. 4, of the California  
6 Industrial Welfare Commission, provided that "... nonexempt employees must be paid  
7 an overtime premium for all hours worked in excess of eight during the workday and in  
8 excess of 40 during the workweek, as well as for work performed on the seventh  
9 workday in a work week..."

10           21. Although the named plaintiff and the plaintiff class members worked  
11 overtime as that term was defined in the relevant wage orders, Defendant failed and  
12 refused to pay the legally required state overtime premiums. Therefore, Plaintiffs  
13 demand overtime compensation as provided under California law.

14                           **SECOND CAUSE OF ACTION**

15                           (FLSA, 29 U.S.C. Section 207, Section 211 (c), and Section 216(b))

16           22. Plaintiffs reallege and incorporate by reference each and every allegation  
17 set forth above as though fully set forth herein.

18           23. By their actions alleged above, Grant Thornton, LLP violated 29 U.S.C.  
19 Section 207, which requires employers to pay overtime compensation to non-exempt  
20 employees.

21           24. As a result of the unlawful acts of Grant Thornton, LLP, Plaintiffs and all  
22 persons  
23 similarly situated have been deprived of overtime compensation in an amount to be  
24 determined at trial, and are entitled to recovery of such amount, liquidated damages,  
25 attorneys' fees, costs, and other compensation pursuant to 29 U.S.C. 216(b).

26                           **THIRD CAUSE OF ACTION**

27                           (California Labor Code Section 201- Section 204, Section 510(a), Section 558, Section  
28                           1174(d) and the California I. W. C. Wage Orders)

1        25.     Plaintiffs reallege and incorporate by reference each and every allegation  
2 set forth above as though fully set forth herein.

3        26.     By their actions alleged above, Defendant violated the provisions of the  
4 California Labor Code and the California I. W. C. Wage Orders that require employers  
5 to pay overtime compensation to non-exempt employees, and to provide daily meal  
6 and rest periods.

7        27.     As a result of the unlawful facts of Defendant, Plaintiffs and those  
8 members of the class in California have been deprived of overtime compensation in  
9 amounts to be determined at trial, and are entitled to recovery of such amounts,  
10 including interest thereon, attorneys' fees, costs, and penalties.

11                    **FOURTH CAUSE OF ACTION: OVERTIME COMPENSATION**

12                    (California Business and Professions Code Sections 17200 et seq.)

13        28.     Plaintiffs hereby incorporate each and every allegation contained in this  
14 complaint above, and reallege said allegations as though fully set forth herein.

15        29.     Throughout the above-described period Defendant repeatedly  
16 misrepresented to the members of the plaintiff class and the general public that the  
17 plaintiffs were "professional" or other sorts of employees exempt from the overtime  
18 laws of the State of California.

19        30.     This misrepresentation gave Defendant a competitive advantage over  
20 other employers who legitimately paid their workers the proper overtime wages and  
21 other wages required by California law.

22        31.     Further, in so acting Defendant violated, *inter alia*, each of the following,  
23 each such act constituting an independent and separate violation of California Business  
24 & Professions Code Section 17200 et seq. :

25                    a. 29 U.S.C. Section 207, Section 211(c) and Section 216(b);

26                    b. 29 C.F.R. Section 785.18 and Section 785.19;



1 c. California Labor Code Section 201 through Section 204, Section 216,  
2 Section 510(a), Section 553, section 558, section 1174(d), Section 1194, and Section  
3 1199; and

4 d. California I.W.C. Wage Order No. 4-2001.

5 32. Defendant's conduct described in this Complaint constitutes an unlawful  
6 business practice in violation of Business and Professions Code Section 17200, et seq.

7 33. Therefore, Plaintiffs pray for restitution and injunctive relief for all class  
8 members, for all wages due, and for an order pursuant to Business and Professions  
9 Code Section 17203 to cease from failing to pay overtime wages to workers employed or  
10 who render services to Defendant within California.

11 **FIFTH CAUSE OF ACTION: STATUTORY INTEREST ON UNPAID WAGES**

12 (Labor Code Section 218.6)

13 34. Plaintiffs hereby incorporate each and every allegation contained in this  
14 Complaint above and reallege said allegations as though fully set forth herein.

15 35. California Labor Code Section 218.6 states: In any action brought for the  
16 nonpayment of wages, the court shall award interest on all due and unpaid wages at  
17 the rate of interest specified in subdivision (b) of Section 3289 of the Civil Code, which  
18 shall accrue from the date that the wages were due and payable as provided in art I  
19 (commencing with Section 200) of Division 2."

20 36. Subdivision (b) of Section 3289 of the California Civil Code states: "If a  
21 contract entered into after January 1, 1986, does not stipulate a legal rate of interest, the  
22 obligation shall bear interest at a rate of 10 percent per annum after a breach."

23 37. Therefore, Plaintiffs demand interest on the amount of wages due weekly  
24 at the rate of 10% per annum as required by law.

25 **SIXTH CAUSE OF ACTION: WAITING PENALTIES**

26 38. Plaintiffs hereby incorporate each and every allegation contained in this  
27 Complaint above and reallege said allegations as though fully set forth herein.



39. California Labor Code Section 203 states "If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.5, 202 and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days."

40. The named plaintiff and the majority of class members terminated employment more than 30 days prior to the filing of this lawsuit.

41. Therefore, Plaintiff, on behalf of the class, demands waiting penalties according to law.

#### SEVENTH CAUSE OF ACTION

##### (Declaratory Relief)

42. Plaintiff realleges and incorporates by reference each and every allegation set forth above as though fully set forth herein.

43. An actual controversy has arisen between the Plaintiff and the Plaintiff class, on the one hand, and the Defendant, on the other hand, relating to the Following matters:

a. Whether Defendant has unlawfully failed to pay overtime compensation in violation of 29 U.S.C. Section 207 to Plaintiff and members of the Plaintiff Class;

b. Whether Defendant has unlawfully failed to pay overtime compensation in violation of California Labor Code Section 1194 to Plaintiff and members of the Plaintiff Class;

c. Whether Defendant has unlawfully failed to pay compensation owing (including unpaid overtime pay) in a timely manner to Plaintiff and members of the Plaintiff Class whose employment has terminated, as required by California Labor Code Section 201 to Section 203; and

d. Whether Defendant can require members of the Plaintiff Class to work overtime hours without compensation as a condition of their employment.

44. Plaintiff and the Plaintiff Class further seek entry of a declaratory judgment against Defendant herein and in favor of Plaintiffs, which judgment declares Defendant's practices as heretofore alleged to be unlawful and which provides for recovery of all sums determined by this Court to be owed by the Defendant to the Plaintiffs and the Plaintiff Class.

**EIGHTH FIFTH CLAIM OF RELIEF**

(For An Accounting From Defendant)

45. Plaintiff realleges and incorporates by reference each and every allegation set forth above as though fully set forth herein.

46. The Plaintiffs are owed, *inter alia*, wages which equal the sum of overtime compensation not paid by Defendant to Plaintiff and members of the Plaintiff Class, statutory interest on such compensation, waiting time penalties owed to the members of the

47. Plaintiff Class whose employment has terminated, and additional retirement plan credit and/or benefits.

48. The Plaintiffs do not know the precise amount of compensation and/or restitution due to the Plaintiff and members of the Plaintiff Class. Upon information and belief, Plaintiff alleges that Defendant possesses records from which the amount of due and owing to each member of the Plaintiff Class can be determined.

49. Such amounts can only be determined by an accounting of the books and records in the possession of Defendant.

NOW, THEREFORE, Plaintiff prays for relief as follows:

1. For an order certifying the Plaintiff Class and any appropriate subclasses thereof and appointing Plaintiffs and their counsel to represent such Class;

2. For declaratory judgment that Grant Thornton, LLP has violated the overtime provisions of 29 U.S.C. Section 207, and California Labor Code Section 1194 and Section 201 to Section 203, as to the Plaintiffs and members of the Class;

3. For an accounting;

4. Premium pay for overtime hours worked according to the Wage Orders of the Industrial Welfare Commission applicable at the time work was performed;

5. For an order enjoining further violations of the FLSA, pursuant to 29 U.S.C. Section 217, and California Labor code Section 1194 and Section 201 to Section 203;

6. For a judgment awarding the Plaintiff and all members of the Plaintiff Class restitution and/or compensatory damages in an amount which may be proven at trial, together with prejudgment interest at the rate allowed by applicable law;

7. Interest at the legal rate of 10% per annum, from each week payment of wages were due for each and every class member.

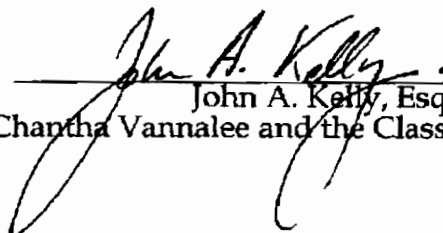
8. Waiting penalties as provided for under Labor Code Section 203.

9. Attorneys fees and costs as required by Labor Code Section 1194.

10. Equitable and injunctive relief including restitution.

11. Such further relief as the court deems just, reasonable, and proper.

DATED: Tuesday, December 18, 2007

  
John A. Kelly, Esq.  
Attorneys for Chantha Vannalee and the Class.